



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/995,294	11/26/2001	Hong M. Dang	100111405-2	9718

7590 11/03/2005
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER

MCALLISTER, STEVEN B

ART UNIT PAPER NUMBER

3627

DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/995,294	Applicant(s) DANG ET AL	
	Examiner Steven B. McAllister	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2005.
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
 4a) Of the above claim(s) 3, 8, 15 and 16 is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1, 2, 4-7 and 9-14 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____
 4) ☐ Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____
 5) ☐ Notice of Informal Patent Application (PTO-152)
 6) ☐ Other: _____

DETAILED ACTION

It is noted that the status indicators of the claims in the amendment of 12/2004 are incorrect. At least some amended claims are listed as "original".

Election/Restrictions

Claims 15 and 16 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 8/16/2005.

Claims 3 and 8 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species. It is noted that Applicant elected species I, drawn to Fig. 6 without traverse, and stated that claims 1-14 read on the species. However, the examiner respectfully notes that claims 3 and 8 recite 7 servers (as shown in Fig. 7) and that the claims are therefore not readable on Species I (Fig. 6 provides only 6 servers).

Claim Objections

Claims 1, 2, 4-7 and 9 are objected to because of the following informalities:
Appropriate correction is required.

Claims 1, 2, 4-7 and 9 recite generally "a [first, second, etc.] server *for* hosting a [first, second, etc.] virtual portal having ..." It is unclear whether the elements recited after "having" are belong to the virtual portal or server.

Amending the claim to read “a [first, second, etc.] server *for* hosting a [first, second, etc.] virtual portal, the [first, second, etc.] portal having...” or “a [first, second, etc.] server *for* hosting a [first, second, etc.] virtual portal, the [first, second, etc.] server having...”

In examining the claims, the text was interpreted as meaning “the portal having” the elements and the server for hosting the portal which has those elements (in other words a server capable of hosting a portal having those elements.) The elements themselves were interpreted as intended use.

An amendment in the form “the server having” would be interpreted as positively reciting the elements as parts of the server.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10-14 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 10-14 are rejected because they provide multiple recitations of “a device”. It is not clear whether the claims intend to recite a single device having all recited elements, or a number of different devices each having one of these elements.

Claims 11 and 14 are further indefinite because “and/or” is indefinite.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al (2002/0052792).

Johnson et al show and first server comprising a merchant server and at least second and third servers, comprising tax service servers (e.g., par. 0110). It further shows a communication infrastructure linking the merchant and tax service servers. Johnson et al do not expressly show up a fourth, fifth, and sixth server. However, the examiner takes official notice that it is notoriously old and well known in the art to spread a functionality among any number of servers. It would have been obvious to one of ordinary skill in the art to use the additional servers in order to reduce the individual load on each server. It is noted that the servers are capable of performing all steps of the recited intended use.

Claims 6, 7 and 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al as applied to claim 1 above, and further in view of Allon et al (5,539,883) and "Propel Announces Strategic Partnerships ...".

Johnson et al show, in addition to elements noted above, an applications module, database module, tax remittance module, security module (provides for submission of

Art Unit: 3627

data via secure site), continuous accessibility module comprising software supporting the broadband connection. Johnson et al further show a system backup and recovery module, and a system monitoring module, since Johnson et al shows use of Windows which has these capabilities. Johnson et al do not explicitly show a load balancing module, a tax computation module, or software modules handling XML data. Allon et al show load balancing and scalability software. It would have been obvious to one of ordinary skill in the art to modify the apparatus of Johnson et al by using a load balancing module in order to keep part of system from overloading. Propel shows a tax module and creating the software in a modular architecture. It would have been obvious to one of ordinary skill in the art to further modify the apparatus of Johnson et al by providing a tax computation module to minimize the software the user must have. As to receiving, parsing, interpreting, processing, converting to another format including TXP, and sending XML messages, the examiner takes official notice that it is notoriously old and well known in the art to do so. It would have been obvious to one of ordinary skill in the art to further modify the method of Johnson in this way in order to provide for flexible and adaptive information identification and to take advantage of a standard protocol.

Regarding claim 9, as previously noted functionality can be distributed in any way among any number of servers. The system of Johnson et al further shows a server determining when a transaction request has been made.

As to claims 10-14, all recited modules are shown as discussed above.

Response to Arguments

Applicant's arguments with respect to claims 6, 7, and 9-14 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments with respect to claims 15 and 16 have been considered but are moot in view of their withdrawal.

Applicant's arguments filed 12/20/2004 have been fully considered but they are not persuasive.

Regarding claims 1, 2, 4-7 and 9, it is noted that the argued elements do not appear to be positively claimed as elements of the server, but as elements of the virtual portal and are intended use of the servers.

Regarding the argued elements of the final paragraph of p. 27, it does not appear that these elements are recited in the claims.

Regarding the arguments that the redundant servers of Johnson are improperly applied as prior art because Johnson contemplates full redundancy of all functions, it is noted that it is not claimed that only certain functions may be provided with redundancy.

Regarding applicant's argument that the combination with Allon is improper because it does not recite load balancing operations to a sales tax assessment, it is noted that the recitation as such was not claimed. Rather a general recitation was made of a software providing load balancing, as taught by Allon.

Conclusion


Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. McAllister whose telephone number is 571-272-6785. The examiner can normally be reached on M-Th 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Steven B. McAllister

Steven B. McAllister
Primary Examiner
Art Unit 3627

STEVE B. McALLISTER
PRIMARY EXAMINER